APPELLANT *PRO SE*:

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IN THE
COURT OF APPEALS OF INDIANA

ELAINE REYNOSA,	)	
	)	
Appellant - Plaintiff,	)	
	)	
vs.	)	No. 93A02-0701-EX-72
	)	
REVIEW BOARD OF THE INDIANA DEPARTMENT OF WORKFORCE DEVELOPMENT and INDIANAPOLIS PUBLIC SCHOOLS,	)	
	)	
Appellees - Defendants.	)	

APPEAL FROM THE REVIEW BOARD OF
THE INDIANA DEPARTMENT OF WORKFORCE DEVELOPMENT
The Honorable Steven F. Bier, Chairperson
The Honorable George H. Baker and Lawrence A. Dailey, Members
Cause No. 06-R-02151

May 29, 2008

MEMORANDUM DECISION - NOT FOR PUBLICATION

KIRSCH, Judge

Elaine Reynosa appeals the decision of the Review Board of the Indiana Department of Workforce Development (the "Board") that she was discharged for just cause and the resulting denial of her unemployment benefits. Reynosa claims that there was insubstantial evidence to support the Board's decision.

We affirm.

FACTS AND PROCEDURAL HISTORY

The relevant facts found by the Administrative Law Judge ("ALJ") and approved by the Board are as follows:

> [Reynosa] worked almost three years for employer, an Indiana school corporation [Indianapolis Public Schools ("IPS")], as an on-call school-bus driver. [Reynosa] worked last on January 12, 2006.
>
> [IPS] discharged [Reynosa] on January 30, 2006 because it believed that she had violated a written rule of its transportation department. The rule provided in part that all equipment and supplies regardless of condition were the property of [IPS]'s board of school commissioners and that unauthorized removal thereof by employees would not be tolerated. [IPS] believed that [Reynosa] took home a laptop computer of [IPS] which a student had left on the bus which she drove around May 2005 and that she never returned the computer to [IPS.]
>
> Discharge for just cause as used in [IC 22-4-15-1] is defined to include but not . . . limited to: . . . (2) knowing violation of a reasonable and uniformly enforced rule of an employer[. . . ."]
>
> [Reynosa] was or should reasonably have been familiar with the rule; it was a reasonable rule; employer uniformly enforced it. [Reynosa]'s above conduct occurred.
>
> Approximately 80 laptop computers came up missing during the latter part of 2005 at the school where [Reynosa]'s son was a student. IPS Criminal and Internal Investigation Division began an investigation. [Reynosa]'s son took the computer which [Reynosa] had taken around May 2005 from their home and brought it to his school for a reward; the value of the computer during January 2006 was $788. However, [IPS] traced the computer to

> another school of [IPS]; a student at that school had left the computer on the bus which [Reynosa] drove around 2005.
>
> Shortly after [Reynosa] took the computer home, she told the regular driver of the bus that she had taken the computer home; the driver told [Reynosa] that she needed to return the computer. [Reynosa] never did so. [Reynosa]'s explanation at our hearing that she forgot that the computer was at her home was not persuasive.

Hearing Ex. at 42-43. The ALJ found that Reynosa was discharged for cause pursuant to statute. Reynosa appealed the decision to the Board, and the Board affirmed the ALJ's decision. Reynosa now appeals.

DISCUSSION AND DECISION

"The purpose of the Unemployment Compensation Act is to provide benefits to those who are involuntarily out of work through no fault of their own." *Fuerst v. Review Bd. of Workforce Dev.*, 823 N.E.2d 309, 312 (Ind. Ct. App. 2005) (citing *General Motors Corp. v. Review Bd. of Workforce Dev.*, 671 N.E.2d 493, 498 (Ind. Ct. App. 1996)). A claimant discharged for just cause may be denied unemployment benefits. IC 22-4-15-1(a); *see also id.*

As provided in IC 22-4-17-12(a), in reviewing a claim on the denial of unemployment benefits, the Board's decision "shall be conclusive as to all questions of fact." *Fuerst*, 823 N.E.2d at 312. When the Board's decision is challenged as contrary to law, we review "the sufficiency of the facts found to sustain the decision and the sufficiency of the evidence to sustain the findings of fact." IC 22-4-17-12(f); *see also id.* We examine findings of basic facts under the "substantial evidence" standard and neither reweigh the evidence nor judge the credibility of the witnesses considering only the evidence most favorable to the Board's decision. *Id.* We review the Board's "ultimate

facts" to ensure the Board's inferences from the "basic facts" are reasonable. *Id.* Further, we consider whether the Board correctly applied the law. *Id.* In order to establish that a *prima facie* showing of discharge for just cause occurred, the employer must demonstrate the claimant: (1) knowingly violated; (2) a reasonable; and (3) uniformly enforced rule. *Butler v. Review Bd. of Workforce Dev.*, 633 N.E.2d 310, 312 (Ind. Ct. App. 1994).

Reynosa argues that there was insufficient and insubstantial evidence to support the Board's decision that she was discharged for just cause. Specifically, Reynosa claims the evidence did not support the Board's finding that she stole IPS property or that the rule against theft is universally applied. Under our standard of review, we look to determine whether there was probative evidence to support the trial court's finding that Reynosa stole IPS property and that the theft was against a uniformly enforced rule.

IPS introduced the testimony of Detective Sergeant Dennis E. Kraeszig, IPS human resources generalist Shalon Dabney, and Reynosa that Reynosa had taken an IPS laptop computer. Reynosa admitted that she took the computer into her home after she found it on a bus. She also acknowledged that she received an IPS employee handbook, which provided that employees are prohibited from taking home school property. Reynosa claims that she never intended to keep the computer, that she only took it off the bus for safekeeping, and that she failed to return it because she forgot that she had it. Reynosa requests us to reweigh the evidence and independently judge witness credibility, which we cannot do. There was substantial evidence to support the Board's decision; therefore, we are compelled to affirm.

Affirmed.

FRIEDLANDER, J., AND BAILEY, J., CONCUR.